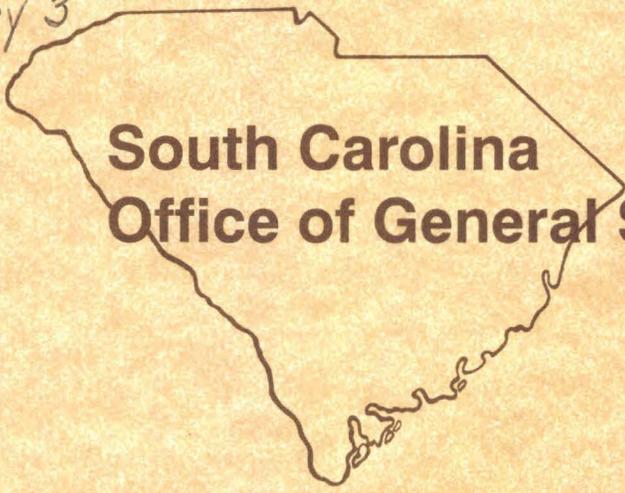


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**South Carolina
Office of General Services**

PROCUREMENT AUDIT AND CERTIFICATION

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**SOUTH CAROLINA DEPARTMENT OF
PUBLIC SAFETY**

AGENCY

OCTOBER 1, 1996 – JUNE 30, 1999

DATE

STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF GENERAL SERVICES



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DIRECTOR

MATERIALS MANAGEMENT OFFICE
1201 MAIN STREET, SUITE 600
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0600
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R. VOIGHT SHEALY
ASSISTANT DIRECTOR

January 4, 2000

Mr. Robert W. McClam, Director
Office of General Services
1201 Main Street, Suite 420
Columbia, South Carolina 29201

Dear Robbie:

I have attached the South Carolina Department of Public Safety's procurement audit report and recommendations made by the Office of Audit and Certification. I concur and recommend the Budget and Control Board grant the Department a three year certification as noted in the audit report.

Sincerely,

A handwritten signature in cursive script that reads "Voight Shealy".

R. Voight Shealy
Materials Management Officer

/jl

**SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
PROCUREMENT AUDIT REPORT**

OCTOBER 1, 1996 - JUNE 30, 1999

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NOTE: The Department's responses to issues noted in the report have been immediately following the issues they refer to.

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R. VOIGHT SHEALY
ASSISTANT DIRECTOR
November 4, 1999

Mr. R. Voight Shealy
Materials Management Officer
Office of General Services
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Voight:

We have examined the procurement policies and procedures of the South Carolina Department of Public Safety for the period October 1, 1996 through June 30, 1999. As part of our examination, we studied and evaluated the system of internal control over procurement transactions to the extent we considered necessary.

The evaluation was to establish a basis for reliance upon the system of internal control to assure adherence to the Consolidated Procurement Code and Departmental internal procurement policy. Additionally, the evaluation was used in determining the nature, timing and extent of other auditing procedures necessary for developing an opinion on the adequacy, efficiency and effectiveness of the procurement system.

The administration of the South Carolina Department of Public Safety is responsible for establishing and maintaining a system of internal control over procurement transactions. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are

to provide management with reasonable, but not absolute, assurance of the integrity of the procurement process, that affected assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and are recorded properly.

Because of inherent limitations in any system of internal control, errors or irregularities may occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Our study and evaluation of the system of internal control over procurement transactions, as well as our overall examination of procurement policies and procedures, were conducted with professional care. However, because of the nature of audit testing, they would not necessarily disclose all weaknesses in the system.

The examination did, however, disclose conditions enumerated in this report which we believe need correction or improvement.

Corrective action based on the recommendations described in these findings will in all material respects place the South Carolina Department of Public Safety in compliance with the Consolidated Procurement Code and ensuing regulations.

Sincerely,


Larry G. Sorrell, Manager
Audit and Certification

INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of the South Carolina Department of Public Safety. Our on-site review was conducted July 26, 1999 through August 20, 1999, and was made under Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code and Section 19-445.2020 of the accompanying regulations.

The examination was directed principally to determine whether, in all material respects, the procurement system's internal controls were adequate and the procurement procedures, as outlined in the Internal Procurement Operating Procedures Manual, were in compliance with the South Carolina Consolidated Procurement Code and its ensuing regulations.

Additionally our work was directed toward assisting the Department in promoting the underlying purposes and policies of the Code as outlined in Section 11-35-20, which includes:

- (1) to ensure the fair and equitable treatment of all persons who deal with the procurement system of this State
- (2) to provide increased economy in state procurement activities and to maximize to the fullest extent practicable the purchasing values of funds of the State
- (3) to provide safeguards for the maintenance of a procurement system of quality and integrity with clearly defined rules for ethical behavior on the part of all persons engaged in the public procurement process

BACKGROUND

Section 11-35-1210 of the South Carolina Consolidated Procurement Code states:

The (Budget and Control) Board may assign differential dollar limits below which individual governmental bodies may make direct procurements not under term contracts. The Office of General Services shall review the respective governmental body's internal procurement operation, shall verify in writing that it is consistent with the provisions of this code and the ensuing regulations, and recommend to the Board those dollar limits for the respective governmental body's procurement not under term contract.

On February 11, 1997, the Budget and Control Board granted the Department the following procurement certifications:

<u>Procurement Areas</u>	<u>Certification Limits</u>
Goods and Services	\$ 50,000 per commitment
Printing Services	\$ 50,000 per commitment
Information Technology	\$ 25,000 per commitment
Construction Services	\$ 25,000 per commitment

Our audit was performed primarily to determine if re-certification is warranted.

The Department has requested the following increased certifications.

<u>Procurement Areas</u>	<u>Certification Limits</u>
Goods and Services	\$ 50,000 per commitment
Information Technology	\$ 50,000 per commitment
Consultant Services	\$ 50,000 per commitment
Construction Contract Award	\$ 25,000 per commitment
Construction Contract Change Order	\$ 25,000 per change order
Architect/Engineer Contract Amendment	\$ 5,000 per change order

SCOPE

We conducted our examination in accordance with Generally Accepted Auditing Standards as they apply to compliance audits. Our examination encompassed a detailed analysis of the internal procurement operating procedures of the South Carolina Department of Public Safety and its related policies and procedures manual to the extent we deemed necessary to formulate an opinion on the adequacy of the system to properly handle procurement transactions.

We selected systematic samples for the period October 1, 1996 through June 30, 1999 of procurement transactions for compliance testing and performed other audit procedures that we considered necessary to formulate this opinion. Specifically, the scope of our audit included, but was not limited to, a review of the following:

- (1) All sole source, emergency and trade-in sale procurements for the period October 1, 1996 through June 30, 1999
- (2) Procurement transactions for the period July 1, 1997 through June 30, 1999 as follows:
 - a) One hundred twenty-five payments exceeding \$1,500
 - b) A block sample of five hundred purchase orders
 - c) Additional sample of ten sealed bids, two sealed proposals and two informal written quotations
- (3) Fifteen major construction contracts, three minor construction contracts and three professional services contracts for compliance with the Manual for Planning and Execution of State Permanent Improvements
- (4) Minority Business Enterprise plans and reports for the audit period
- (5) Information technology plans for audit period
- (6) Internal procurement procedures manual
- (7) Surplus property disposal procedures
- (8) Real property lease approvals
- (9) Procurement file documentation and evidence of competition

SUMMARY OF AUDIT FINDINGS

Our audit of the procurement system of the Department of Public Safety, hereinafter referred to as the Department, produced the following findings and recommendations.

	<u>PAGE</u>
I. <u>Overpayment on Term Contract</u>	7
<p>The Department overpaid the term contract vendor \$24,518.55 for nineteen unmarked patrol automobiles.</p>	
II. <u>Compliance – General</u>	
A. <u>Award Statements Not Issued</u>	8
<p>The Department did not prepare award statements on seven sealed bids.</p>	
B. <u>Award Statements Did Not Contain Protest Rights</u>	9
<p>Two notices of intent to award statements did not include the bidder’s right to protest.</p>	
C. <u>Combining Items</u>	9
<p>The Department should have combined the needs for consultant services and solicited competition based on the total costs.</p>	
D. <u>No Evidence of Competition</u>	11
<p>Three procurements for consultant services were not competed or supported by a sole source or emergency determination.</p>	
III. <u>Sole Source Procurements</u>	12
<p>Fourteen sole source procurements that exceeded \$50,000 were not supported by the required drug-free workplace certification.</p>	

RESULTS OF EXAMINATION

I. Overpayment on Term Contract

Purchase order 99005577 was issued on April 26, 1999 to purchase forty-five unmarked patrol automobiles on term contract C8000996003. The unit price per automobile was \$20,058.55, the amount allowed per the term contract. While conducting the on-site review, the Department paid for nineteen of the automobiles. The payment was made on voucher 36619 on July 16, 1999 for payment of nineteen automobiles with a unit cost of \$21,349, an increase of \$1,290.45 per unit, for a total overpayment of \$24,518.55, as follows:

<u>PO Date</u>	<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Contract Price Per Car</u>	<u>Amount Paid Per Car</u>	<u>Overpayment</u>
4/26/99	16404	6/30/99	\$20,058.55	\$21,349.00	\$1,290.45
4/26/99	16405	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16412	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16418	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16420	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16421	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16422	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16423	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16424	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16425	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16426	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16427	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16430	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16431	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16432	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16434	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16438	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16441	6/30/99	20,058.55	21,349.00	1,290.45
4/26/99	16444	6/30/99	20,058.55	21,349.00	1,290.45
		Total	<u>\$381,112.45</u>	<u>\$405,631.00</u>	<u>\$24,518.55</u>

A memo in the file noted the increase was the result of a floor plan cost or inventory fee charged by the manufacturer. This type of charge is allowed by the contract under certain conditions. However, we could not nor could the Department determine how the \$1,290.45 per car increase was calculated.

We recommend the Department require the vendor to furnish an itemized break down showing how the additional charge was calculated. If the charge of \$1,290.45 was not allowable, we recommend the Department request a refund of the overpayment and each payment made to the contractor under this term contract should be reviewed for overpayments.

DEPARTMENT RESPONSE

After a meeting with the Audit Staff to discuss the payment of an inventory fee on vehicles purchased on purchase order 99005577, the Department requested the contract vendor provide documentation concerning the inventory fee. To comply with our request, the contract vendor issued a letter indicating the variance in price resulted in accrued interest costs and inventory fees for orders entered beyond the cutoff date. Since the contract vendor's response was not sufficient to determine if the cost were allowable under the terms of the contract, the Department requested, in our October 26, 1999 letter, an itemized breakdown of the charges included in the inventory fee. The November 29, 1999 response from the contract vendor indicated the vehicles had additional features that resulted in \$330 of charges reducing the actual inventory fee to \$960. These fees were broken out into an interest expense, insurance and document fee and inventory fee. The detail was not adequate to determine which portion of the fee is allowable under the contract, resulting in a follow-up letter dated December 29, 1999. Upon receipt of the contract vendor's response the Department will determine what portion of the fees are allowable, and will request the contract vendor reimburse any differences. The Department is also conducting an internal review of all vehicle purchases made from this contract vendor to determine if any other fees may have been overpaid. This process is time consuming due to system limitations but a report is forthcoming.

II. Compliance-General

A. Award Statements Not Issued

Award statements were not issued on the following seven invitation for bids.

<u>Bid Number</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
98-67580	3/19/98	Water Cooler	\$24,999
98-57472	8/11/98	Printing	21,567
98-64368	5/28/98	Decals	12,232
98-79475	8/13/98	Printing	13,681
98-85174	8/13/98	Printing	10,237
98-85183	8/07/98	Printing	21,273
98-090247	8/07/98	Printing	28,045

Section 11-35-1520(10) of the Code requires that notice of an intended award of a contract be given to all bidders by posting the notice at a location specified in the bid.

We recommend that award statements be issued and posted on all contracts awarded by invitation for bids.

DEPARTMENT RESPONSE

We concur with the audit finding. The two Procurement Officers involved have been counseled and procedures have been implemented to eliminate recurrence. Notices are posted in the reception area in the Procurement Office and copies are included with the bid and purchase order package.

B. Award Statements Did Not Contain Protest Rights

The Department did not include the bidder's right to protest statement on the award statements on the following two invitation for bids.

<u>Bid Number</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
B99-093721	4/26/99	Jackets	\$49,455
B99-102147	4/27/99	Split axle scale and weighting system	22,996

Section 11-35-1520 (10) of the Code requires that the posted notice must contain a statement of a bidder's right to protest as defined in Section 11-35-4210(1).

We recommend the Department add the bidder's right to protest statement on all notices of awards.

DEPARTMENT RESPONSE

We concur with the audit finding. During the Department's migration from WordPerfect to Word, the statement was temporarily lost in the transfer of data and not immediately detected by the Procurement Officers upon signing. Our procedures require that award statements include the statement of a bidder's right to protest as defined in Section 11-35-4210(1). The oversight has been corrected.

C. Combining Items

The Department should have combined the needs on the following items and solicited competition based on the total cost for the consultant services.

<u>PO</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
98-001260	9/15/97	Consultant	\$1,495
98-001261	9/15/97	Consultant	1,491
98-001262	9/15/97	Consultant	1,486
98-001263	9/15/97	Consultant	1,479

Individual consultants were hired to form a traffic record assessment team. A memo dated September 3, 1997 stated, in part, "In order to avoid the necessity of going through the bidding process, all contractors were told to keep their costs under \$1,500. This would require direct payment of air fare and hotel rooms by the agency. All other expenses were to be included in the contract." The estimated expenses for the assessment team was \$11,667 that included airfare, hotel rooms, meals, and transportation between the airport and hotel. Since the total potential procurement exceeded \$10,000, a written solicitation of written quotations and advertisement in the South Carolina Business Opportunities were required by Section 11-35-1550(2)(d) of the Code. The file also contained a memo dated September 5, 1997 that stated in part, "The more serious problem is that the services, by the terms of the contract, have been performed and I cannot recommend that this agency enter into a contract after the fact. From my knowledge of the Procurement Code of South Carolina, this omission can be handled in one of two ways. We can either (1) write this up as an unauthorized purchase or (2) consider it a confirming small procurement under \$1,500." The Department proceeded with issuing confirming purchase orders that were less than \$1,500 to each of the four consultants rather than taking the appropriate action by addressing the matter as an unauthorized procurement as defined in Regulation 19-445.2015.

We recommend all costs associated with the hiring of consultants be considered when determining the appropriate source selection process for future procurements. Ratification of the unauthorized procurement must be requested from the Director of the Department or his designee to the Materials Management Officer in accordance with Regulation 10-445.2015 since the total value of \$11,667 exceeded the Department's procurement authority of \$5,000 for consultant services.

DEPARTMENT RESPONSE

We concur with the audit finding. In this case, the procurement was already completed by the requesting Division. The requestor submitted separate requisitions for each of the individual consultants, none of which individually exceeded \$1,500. We agree that the Department should have viewed the traffic records assessment team procurement, including all associated costs, as a whole and declared it unauthorized as defined in Regulation 19-445.2015. We are declaring the procurement unauthorized now and will seek ratification. A memorandum addressed to all Deputy Directors and Department Heads addressing the proper procedures and considerations for procurement of consultant procurements is being drafted. Future procurements which do not comply with these procedures will be declared unauthorized.

(D) No Evidence of Competition

The following three procurements were made without any solicitations of competition, sole source or emergency determinations.

<u>PO</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
970833	11/6/96	Consultant services	\$12,000
980223	12/29/97	Consultant Services	12,000
990595	8/6/98	Consultant Services	12,000

Each purchase order was issued to the same consultant to write a script for the production Crime to Court, an informative television program for law enforcement officers of South Carolina. The Department considered these procurements exempt as professional service contracts as defined in Section 11-35-1270 of the Code. However, the exemption is intended for professionals (e.g. clergy, dentists, and physicians) performing a service in their particular field where payment is on a fee basis. The section only applies to services that have been exempted from the Code, not the consultant services listed above.

We recommend the Department solicit competition for this type of service.

DEPARTMENT RESPONSE

We concur with the audit finding. Section 11-35-1270 of the Code was inappropriately applied to a recurring consultant services contract for the years 1996-98. This has been corrected, and this contract appropriately declared a sole source for 1999. All future professional services contracts will be procured utilizing the proper procurement methodology.

III. Sole Source Procurements

We noted the following fourteen sole source procurements greater than \$50,000 where the Department did not obtain the required certification from the vendors stating that they were in compliance with the South Carolina Drug-Free Workplace Act.

<u>PO</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
970925	11/19/96	Information network service for FY97	\$ 172,000
971019	1/16/97	Commercial drivers license information system implementation	\$ 150,000
980237	7/10/97	Commercial drivers license information system implementation	\$ 150,000
980386	7/14/97	Digitized drivers licenses custom software and support	\$ 700,000
002108	11/3/97	Monthly fuel tax service	\$ 54,794
980386	3/25/98	Digitized drivers licenses custom software and support	\$ 700,000
990129	7/9/98	Fuel tax base service FY99	\$ 160,140
980386	7/13/98	Digitized drivers licenses custom software and support FY99	\$ 3,824,754
990232	7/15/98	Maintenance on microfilm equipment	\$ 119,663
990562	8/12/98	Commercial drivers license information system implementation	\$ 150,000
990239	9/22/98	IRP base service	\$ 226,092
990239	3/23/99	IRP base service	\$ 124,898
990562	4/8/99	Commercial drivers license information system implementation	\$ 52,441
996282	5/25/99	Modular unit for classroom/office	\$ 52,350

Section 44-107-30 of the South Carolina Code of Laws requires on any contract of \$50,000 or more that a certification be obtained stating that the vendor maintains a drug-free workplace. Sole source procurements are subject to this law.

We recommend the Department obtain the drug-free workplace certification on all sole source contracts greater than \$50,000.

DEPARTMENT RESPONSE

We concur with the audit finding. We have obtained drug-free workplace affidavits from all sole source contractors identified in the audit. Additionally, we have developed procedures that will insure all sole source and emergency contracts of \$50,000 or more contain certifications of a drug free workplace from the contractor. The Procurement Manager shall counter sign each signed affidavit submitted by a contractor as further evidence and support that the file is complete and proper.

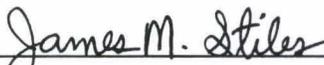
CERTIFICATION RECOMMENDATIONS

As enumerated in our transmittal letter, corrective action based on the recommendations described in this report, we believe, will in all material respects place the Department of Public Safety in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

Under the authority described in Section 11-35-1210 of the Procurement Code, subject to this corrective action, we will recommend the Department be recertified to make direct agency procurements for three years up to the limits as follows:

<u>PROCUREMENT AREAS</u>	<u>RECOMMENDED CERTIFICATION LIMITS</u>
Goods and Services	*\$50,000 per commitment
Information Technology	*\$50,000 per commitment
Consultant Services	*\$50,000 per commitment
Construction Contract Award	*\$25,000 per commitment
Construction Contract Change Order	\$25,000 per change order
Architect/Engineer Contract Amendment	\$ 5,000 per change order

*Total potential purchase commitment whether single year or multi-term contracts are used.



James M. Stiles, CPPB
Audit Manager



Larry G. Sorrell, Manager
Audit and Certification

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R. VOIGHT SHEALY
ASSISTANT DIRECTOR

January 4, 2000

Mr. R. Voight Shealy
Materials Management Officer
Materials Management Office
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Voight:

We have reviewed the response from the South Carolina Department of Public Safety to our audit report for the period of October 1, 1996 – June 30, 1999. Also we have followed the Department's corrective action during and subsequent to our fieldwork. We are satisfied that the Department has corrected the problem areas and the internal controls over the procurement system are adequate.

Therefore, we recommend the Budget and Control Board grant the South Carolina Department of Public Safety the certification limits noted in our report for a period of three years.

Sincerely,

Handwritten signature of Larry G. Sorrell in cursive.

Larry G. Sorrell, Manager
Audit and Certification

LGS/jl

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